

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

In re National Opiate Litigation : MDL No. 2804  
: (Hon. Dan Polster)

**NOTICE TO ALL COUNSEL REPRESENTING COMMONWEALTH OF  
PENNSYLVANIA PARTIES OF THEIR ELIGIBILITY TO  
APPLY FOR REIMBURSEMENT OF CONTINGENCY FEES  
FROM THE PENNSYLVANIA OPIOID FEE FUND RELATING TO THE  
SETTLEMENTS WITH THE DISTRIBUTOR AND J&J DEFENDANTS**

This 24th day of February, 2023, Notice is hereby given as follows:

This Notice is directed to all counsel who represent Commonwealth of Pennsylvania parties in this MDL to advise them of their eligibility to apply for reimbursement of contingency fees from the Pennsylvania Opioid Fee Fund relating to the settlements with the Distributor and J&J defendants.<sup>1</sup> This Notice is being filed in this docket at the request of Special Master (Judge Joel Schneider, Ret.) who was designated in an Order entered in the consolidated Pennsylvania opioid cases<sup>2</sup> to oversee, allocate and disburse fees from the Pennsylvania Opioid Fee Fund.<sup>3</sup>

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<sup>1</sup> The Distributor defendants are McKesson Corporation, Cardinal Health, Inc. and AmerisourceBergen Corporation. The J&J defendants are Johnson and Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil Pharmaceuticals and Janssen Pharmaceuticals, Inc.

<sup>2</sup> The Consolidated Pennsylvania Opioid cases are pending in the Court of Common Pleas of Delaware County, Pennsylvania Civil Division, Civil Action – Law No. 2017- 008095.

<sup>3</sup> Eligibility notice has already been sent to all counsel in the consolidated Pennsylvania Opioid cases. In an effort to assure that all applicable counsel receive notice of their eligibility for reimbursement of contingency fees from the Pennsylvania Fee Fund, the Special Master wants to make sure that counsel representing Pennsylvania parties in the MDL who are not involved in the consolidated cases also receive notice.

On February 17, 2023, The Honorable Barry C. Dozor entered an “Order Establishing Application Protocols For Allocation and Payment of Contingency and Agreed Litigation Conduct (a/k/a Common Benefit) Fees Under the Pennsylvania Opioid Trust and Allocation Order.” (Hereinafter, “Order”). Pursuant to Orders entered in the consolidated Pennsylvania cases, “counsel shall only be eligible to apply for Contingency Fees if they represented Pennsylvania clients who executed Participation Agreements to participate in the J&J and Distributor Settlement Agreements<sup>4</sup> regardless of the jurisdiction where they filed their cases.” See Order at I (p.2).<sup>5</sup>

Pursuant to an August 31, 2022 Order entered by Judge Dozor, only the attorneys and law firms that timely returned or executed by September 23, 2022 a Preliminary Intent to Participate in Pennsylvania Opioid Fee Fund Form may apply for fees. However, “[l]ate submission of any component of the Contingency Fee . . . Application[ ] [may be considered with] approval of the Special Master and only for good cause shown.” Order at 2-3.

Accordingly, if you have not already done so and you intend to make an application for contingency fees, you should send your “good cause” application to the Special Master’s Assistant, Pamela Theisen ([ptheisen@mmwr.com](mailto:ptheisen@mmwr.com)) by March 10, 2023. Thereafter the application will be promptly decided. If leave is granted to file a late Application you should consult the referenced February 17, 2023 Order for application details and deadlines.

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<sup>4</sup>. The Distributor defendants are McKesson Corporation, Cardinal Health, Inc. and AmerisourceBergen Corporation. The J&J defendants are Johnson and Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil Pharmaceuticals and Janssen Pharmaceuticals, Inc.

<sup>5</sup> Counsel representing clients whose cases are pending in federal court in this MDL, or who do not participate in the J & J and Distributor Settlements may not be awarded Common Benefit fees, costs and expenses for work incurred in connection with representation of those clients. Id.

You are advised that copies of all relevant Orders, including the February 17, 2023 Order referenced in this Notice, may be found on the Pennsylvania Opioid Fee Fund website.

(<https://paopioidfeefund.com>)

All questions regarding this Notice should be directed to Pamela Theisen (ptheisen@mmwr.com).

Respectfully submitted,

By: s/ Joel Schneider  
Judge Joel Schneider  
Special Master (Ret.)  
Pennsylvania Opioid Fee Fund

Dated: February 24, 2023